

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

BENJAMIN DAVIS,

Petitioner,

vs.

STATE OF ALASKA,

Respondent.

No. 3:20-cv-00274-JKS

ORDER OF DISMISSAL

On April 22, 2020, Benjamin Davis, a state prisoner proceeding *pro se*, filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254. Docket No. 1 (“Petition”). The Court noted that his Petition was deficient because Davis did not pay the \$5.00 filing fee for maintaining habeas actions in federal court, or file an Application to Waive Prepayment of the Filing Fee. Docket No. 2. Davis subsequently moved for leave to proceed *in forma pauperis* (“IFP”), which, if granted, would allow him to maintain this action without paying the filing fee. Docket No. 3. After reviewing Davis’s Petition and the IFP motion, the Court noted that his IFP application was deficient because he did not include “a certificate from the warden or other appropriate officer of the place of confinement showing the amount of money or securities that [he] has in any account in the institution,” as required by Rule 3(a)(2) of the Rules Governing Section 2254 Proceedings in the U.S. District Courts. Docket No. 4 at 7. The Court ordered Davis to submit either the \$5.00 filing fee for maintaining this action or a valid and complete Application to Waive

Prepayment of the Filing Fee by December 30, 2020. Docket No. 6 at 3. To date, Davis has not complied with this Order.

**IT IS THEREFORE ORDERED:**

1. This case is **DISMISSED WITHOUT PREJUDICE**.
2. All pending motions are **DENIED AS MOOT**.
3. The Clerk of Court is respectfully directed to enter final judgment in this case.
4. The Court declines to issue a Certificate of Appealability. *See* 28 U.S.C. § 2253(c); *Banks v. Dretke*, 540 U.S. 668, 705 (2004) (“To obtain a certificate of appealability, a prisoner must ‘demonstrat[e] that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.’” (quoting *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003))). Any further request for a Certificate of Appealability must also be addressed to the Ninth Circuit Court of Appeals. *See* FED. R. APP. P. 22(b); 9TH CIR. R. 22-1.

Dated at Anchorage, Alaska this 6th day of January, 2021.

s/James K. Singleton, Jr.  
JAMES K. SINGLETON, JR.  
Senior United States District Judge